



DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the Defense Production Act of 1950

Notice is hereby given pursuant to Section 708 of the Defense Production Act of 1950 ("DPA"), that the Assistant Attorney General finds, with respect to the Voluntary Tanker Agreement ("VTA") proposed by the Maritime Administration ("MARAD"), that the purposes of Section 708(c)(1) of the may not reasonably be achieved through a voluntary agreement or plan of action having less anticompetitive effects or without any voluntary agreement or plan of action. Given this finding, the proposed Voluntary Agreement may become effective following the publication of this notice.

Under the DPA, MARAD may enter into agreements with representatives of private industry for the purpose of improving the efficiency with which private firms contribute to the national defense when conditions exist that may pose a direct threat to the national defense or its preparedness. Such arrangements are generally known as "voluntary agreements." A defense to actions brought under the antitrust laws is available to each participant acting within the scope of a voluntary agreement that has come into force under the DPA.

The DPA requires that each proposed voluntary agreement be reviewed by the Attorney General prior to becoming effective. If, after consulting with the Chair of the Federal Trade Commission, the Attorney General finds that the purpose of the DPA "may not be reasonably achieved through a voluntary agreement having less anticompetitive effects or without any voluntary agreement or plan of action," the agreement may become effective. 50 U.S.C. §4558 (f)(1)(B). All functions which the Attorney General is required or authorized to perform by section 708 of the DPA have been delegated to the Assistant Attorney General, Antitrust Division. 28 C.F.R. § 0.40(1)

The purpose of the proposed VTA is to support Department of Defense ("DoD' ') contingency requirements to provide tanker capacity during times of crisis through procedures agreed in advance. The proposed VTA establishes the terms, conditions and procedures under which participants agree voluntarily to make tankers available to the DoD. MARAD has certified that the proposed VTA is necessary to carry out its purpose.

MARAD requested that the Assistant Attorney General, Antitrust Division, issue a finding that the proposed Voluntary Agreement satisfies the statutory criteria set forth in 50 U.S.C. 4558(f)(1)(B). The Assistant Attorney General, Antitrust Division, reviewed the proposed Voluntary Agreement and consulted on it with the Chair of the Federal Trade Commission. On September 21, 2022, by letter to Ann C. Phillips, Maritime Administrator, Jonathan S. Kanter, Assistant Attorney General, Antitrust Division, issued a finding pursuant to 50 U.S.C. 4558(f)(1)(B), that the purposes of the VTA “may not reasonably be achieved through a voluntary agreement . . . having less anticompetitive effects or without any voluntary agreement.”

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